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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,458	09/23/2003	Chantal Jubinville	20339.13	2368
49358	7590	04/21/2006	EXAMINER	
CARLTON FIELDS, PA 1201 WEST PEACHTREE STREET 3000 ONE ATLANTIC CENTER ATLANTA, GA 30309			HOEL, MATTHEW D	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/668,458	<b>Applicant(s)</b> JUBINVILLE ET AL.	
	<b>Examiner</b> Matthew D. Hoel	<b>Art Unit</b> 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/22/06</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 8 to 18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected inventions II to IV, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on Apr. 3<sup>rd</sup>, 2006. The examiner respectfully disagrees with the applicants' traversal. The restriction requirement of Feb. 22<sup>nd</sup>, 2006 is incorporated by reference. Claims 1 to 18 are all directed methods of awarding a jackpot, or a portion thereof, in a lottery game, wherein a set of numbers selected by a player is compared to a set of number drawn by the lottery game and awards are determined and given to the player according to different rules. Other than this, the applicants give no further reasons for traversal. These features are widely known in the art as common to all lottery games and are not an inventive step. The methods of the independent claims 1, 8, 13, and 16 for calculating the portion of the jackpot amount to be awarded to the player are all widely different from each other. Each of the independent claims can be used separately and does not require the specifics of any of the other independent claims. The claims are not species of the same genus.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Muniz (WIPO publication WO 01/74460 A2, application PCT/IB01/00666).

4. As to Claim 1: '460 teaches accepting an entry from each of a plurality of players for an occurrence of a lottery game (multiple players, Page 16, Lines 12 to 20), each entry comprising a first subset of numbers selected from a predetermined range of numbers (Fig. 9). '460 determines the outcome for the occurrence of the lottery game, the outcome for the occurrence of the lottery game comprising a second subset of numbers selected from the predetermined range of numbers (local lotto drawn separately, Page 15, Lines 22 to 23). '460 compares the first subset of numbers for each of the entries to the second subset of numbers for the outcome of the lottery game (prize awarded if the draw matches any plays, Page 15, Lines 22 to 23). '460 determines the numbers of matched numbers for each entry between the first subset of numbers for the entry and the second subset of numbers for the outcome of the lottery game based on the comparison of the first subset of numbers for each entry to the second subset of numbers for the outcome of the lottery game (player can win on two out of four or four out of four numbers, Page 11, Lines 6 to 13). '460 determines that none of the entries for the occurrence of the lottery game match every number in the first subset of numbers for the entry to a corresponding one of the numbers in the second subset of numbers for the outcome of the lottery game (consolation prize may be awarded based on the results of outside lotteries if the player does not win the local

lottery, Page 15, Lines 14 to 16). '460 awards a share of at least a portion of the jackpot amount to at least a portion of the entries for the occurrence of the lottery game wherein none of the numbers of the first subset match any of the numbers in the second subset of numbers for the outcome of the lottery game (players may win consolation prize even if there are no entries matching any of the outside lotteries, Page 16, Lines 7 to 11).

5. As to Claim 2: '460 can award at least a portion of the jackpot amount comprising a share of the at least a portion of the jackpot amount to each of the entries for the occurrence of the lottery game wherein none of the numbers of the first subset of numbers of the entry match any of the numbers in the second subset for the outcome of the lottery game (possible for all players to win a consolation prize even if there are no entries matching any of the outside lotteries, Page 16, Lines 7 to 11).

### ***Claim Objections***

6. Claim 1 is objected to because of the following informalities: Line 14 of Claim 1 cites "second number;" the examiner believes the applicants intend to cite "second subset of numbers." Appropriate correction is required.

### ***Drawings***

7. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the steps for determining the portion of the jackpot to be awarded as claimed in Claims 1 to 18 must

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be shown, preferably in a flowchart, or the feature(s) canceled from the claim(s). No new matter should be entered.

8. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Allowable Subject Matter***

9. Claims ~~3~~ to 7 are allowed.

10. The following is a statement of reasons for the indication of allowable subject matter: The examiner could find no suggestion in the prior art for awarding a share of the at least a portion of the jackpot amount to each of the entries for the occurrence of

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the lottery game wherein none of the numbers of the first subset of numbers of the entry match any of the numbers in the second subset of numbers for the outcome of the lottery game and the difference between each number of the first subset of numbers for the entry and the corresponding one of numbers of the second subset of numbers for the outcome of the game is equal, as cited in Claim 3. The examiner could find no suggestion in the prior art for selecting second and third subsets of numbers for the outcome of the lottery game and awarding a share of the at least a portion of the jackpot amount to each of the entries for the occurrence of the lottery game wherein none of the numbers of the first subset of numbers of the entry match any of the numbers in the second subset of numbers for the outcome of the lottery game and none of the numbers of the first subset of numbers match and of the numbers in the third subset of numbers for the outcome of the lottery game, as cited in Claim 4. The examiner could find no suggestion in the prior art for determining that the jackpot amount is greater than a predetermined maximum jackpot amount and awarding shares of the at least a portion of the jackpot amount to entries matching fewer than all of the numbers of the first subset of numbers to numbers of the second subset of numbers for the outcome of the occurrence of the lottery game where the jackpot amount is determined to be greater than the predetermined maximum jackpot amount, as cited in Claim 6.

***Citation of Pertinent Prior Art***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mullins in U.S. patent 6,210,276 B1 teaches a lottery with a consolation prize. Markowicz in U.S. patent 4,842,287 A teaches a networked lottery.

***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Hoel whose telephone number is (571) 272-5961. The examiner can normally be reached on Mon. to Fri., 8:00 A.M. to 4:30 P.M.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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AU 3713

  
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